

Minutes of Special and Regular Meeting of September 22, 2009

One Twin Pines Lane

SPECIAL MEETINGS

CLOSED SESSION - 6:30 P.M.

- A. Conference regarding Public Employee Appointment Pursuant to Government Code Section 54957: City Manager

Attended by Councilmembers Feierbach, Dickenson, Wozniak, Lieberman, Braunstein, City Manager Crist, City Attorney Zafferano, Human Resources Director Dino, Assistant Finance Director Lazzari, Parks and Recreation Director Gervais, Community Development Director de Melo. City Clerk Cook was excused from attending.

ADJOURNMENT at this time, being 7:25 P.M.

Terri

Cook

City Clerk

This meeting was not tape recorded or videotaped.

STUDY SESSION

Response to Grand Jury Report Entitled "Trashtalk: Rethinking the Waste" Recommendation RFP Process by the South Bayside Waste Management Authority (SBWMA)

This item was carried over to the end of tonight's meeting.

REGULAR MEETING

CALL TO ORDER 7:40 P.M.

ROLL CALL

COUNCILMEMBERS PRESENT: Feierbach, Lieberman, Wozniak, Braunstein

COUNCILMEMBERS ABSENT: Dickenson

Staff Present: City Manager Crist, City Attorney Zafferano, Human Resources Director Dino, Interim Public Works Director Borrmann, Police Captain DeSmidt, Parks and Recreation Director Gervais, Associate Planner Walker, Finance Director Fil, City Manager Intern Spacher, City Treasurer Violet, Interim Deputy City Clerk Plut, and City Clerk Cook.

PLEDGE OF ALLEGIANCE

Led by **Ray Lohe**, Belmont Senior Club President, who invited everyone to participate in the various activities and programs held at the Senior and Community Center.

REPORT FROM CLOSED SESSION

City Attorney Zafferano stated that direction was given but no action taken on the Closed Session held earlier.

SPECIAL PRESENTATIONS

Presentation by Belmont Community Players (Melodrama)

Members of the Belmont Community Players invited the community to attend the upcoming annual Melodrama.

COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS

Mayor Braunstein made the following announcements: Movie in the Park on September 25th; Joint Meeting with City Council and the Belmont-Redwood Shores School District on September 29th; Notre Dame de Namur's Presidential Inauguration Ceremony on September 25th; results of Coastal Cleanup Day held on September 19th; Save the Music Festival to be held on October 4th. He also announced that the City of Belmont recently acquired property in the San Juan Canyon at a recent IRS auction. He stated this was a once in a lifetime opportunity to purchase this property for a minimal price.

Councilmember Feierbach stated that she has worked to save the San Juan Canyon for 30 years. She noted that some of the San Juan parcels could be sold to offset the purchase price. She noted there may also be grant opportunities. She would also support the City's acquisition of Water Dog Lake.

Councilmember Lieberman stated that this is a momentous decision for the City of Belmont. This property acquisition maintains the character of Belmont and will allow the City to use the land intelligently. He noted that some parcels have development opportunities.

Councilmember Dickenson stated that he initially did not support the acquisition of this land due to the cost. He is happy that the City was able to acquire the property at the minimum bid price.

Councilmember Wozniak stated that she attended the auction. She initially did not support the purchase as she wanted more leeway on the price at both the lower and upper end. It is a win for the City that the land was acquired for the minimum bid. She supports selling some parcels to offset the cost.

AGENDA AMENDMENTS

City Clerk Cook noted that a member of the public requested the removal of Consent Item 4-B (Written Communication Received September 8, 2009, PUC Notification of Filing by PG&E for Wildfire Claims Cost Recovery) for separate consideration.

Mayor Braunstein noted that New Business Item 7-A (Discussion and Direction Regarding Parking Restrictions and Limitations City Wide) would be tabled to a future meeting.

ITEMS APPROVED ON CONSENT CALENDAR

Approval of Minutes of Special and Regular Meeting of August 11, 2009 and Special Meeting of August 27, 2009

Approval of Resolution 10169 Approving the Filing of the 2009/2010 Highway Safety Improvement Program (HSIP) Grant with the California State Department of Transportation for Installation of a Guardrail Along the Eastern Portion of the 500 Block of Middle Road

Approval of Resolution 10170 Waiving the Competitive Purchasing Policy and Authorizing the City Manager to Execute an Agreement and Amendments for Professional Services with TY Lin

International, Inc. for an Amount not to Exceed \$55,000 and Authorizing a Contingency for \$5,5000 for Design Support during Bidding for the U.S. Highway 101 Pedestrian/Bicycle Bridge Project, City Contract Number 433

Approval of Resolution 10171 Approving Renewal of Contract with Peninsula Conflict Resolution Center

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Lieberman, the Consent Agenda was unanimously approved, as amended, by a show of hands.

ITEM REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION

Written Communication Received September 8, 2009, PUC Notification of Filing by PG&E for Wildfire Claims Cost Recovery

In response to Councilmember Dickenson, City Manager Crist clarified that information regarding the Public Utility Commission (PUC) is available on the City's website.

Gladwyn D'Souza, Belmont resident, stated that the proposal from PG&E will have a fiscal impact on residents. He suggested that this matter be referred to the Infrastructure Committee. He noted that PG&E has an issue wherein non-undergrounded wires are involved in fires.

Councilmember Dickenson concurred that awareness would be raised by sending these items to the Infrastructure Committee.

City Clerk Cook clarified that the PUC notices are sent to the City as part of their noticing requirements, and that the City Council is being asked only to acknowledge receipt of the notice.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Feierbach, the Written Communication regarding the PUC Hearing for PG&E's Cost Recovery Claim was unanimously approved by a show of hands to be filed.

HEARINGS

Public Hearing to Review Planning Commission Action from February 3, 2009, Public Hearing Regarding Conditional Use Permit and Design Review (T-Mobile), Pursuant to Municipal Code Section 1-11

Associate Planner Walker described the proposed application to install wireless panels on the existing water tank on Mezes Avenue. The application was approved by the Planning Commission in February, which action was subsequently requested to be reviewed by the City Council. She provided a background of the City Council hearing held in the spring, after which a third-party review was initiated. She noted that many responses have been received by neighbors who object to the approval of the panels. She clarified that staff recommends that there is not sufficient evidence to overturn or modify the Planning Commission's approval of the project based on the findings to be made. She clarified that the City of Belmont will receive no revenue from T-Mobile, as this is Mid-Peninsula Water District property.

Ben Davies, T-Mobile, stated that this has been a long process that has included four Planning Commission hearings, City Council meetings, several neighborhood meetings, and a third-party

study. He explained the need to close a gap in cell coverage in the area. He stated there is no false data that was provided. He noted that the air conditioning unit was relocated.

City Attorney Zafferano clarified that this Hearing is not an appeal of a Planning Commission decision, but is a call-up of the matter by members of the City Council for review. He explained that the City Council has the ability to uphold or overturn the Commission's decision, or take other action. Key issues for Council consideration include whether or not it finds there is a gap in cell coverage and the suitability of the location of the cell panels. He outlined the parameters to consider if there is a desire to continue the matter if Council is unable to reach a decision. He further clarified that FCC (Federal Communications Commission) pre-empts local regulations, including the federal standards for radio frequency emissions.

Mayor Braunstein opened the Public Hearing.

Joe Iffla, Belmont resident, stated that many issues were discussed at the Planning Commission hearings. He expressed concern regarding the devaluation of property values, and he has been advised that this is not a basis of denial of the application. He recommended that warning notices be required to be posted at the site. He commented that the City has a responsibility to protect its residents.

Rick Pauli, Belmont resident, outlined various sections of the current Zoning ordinance that he contends have not been followed with this application.

David King, Belmont resident, stated he does not support the application for a number of reasons. He expressed concern regarding the powerlessness of cities with regard to the federal regulations. He noted that the federal law has been challenged by other cities.

Robert Miller, Belmont resident, stated that the application has not been made by the property owner, which he contends is required by City ordinance. He questioned how the floor area of the water tank was calculated.

Susan Wright, Belmont resident, stated that Belmont needs a strong wireless ordinance. There is a need to address the proximity of wireless equipment to residences and schools. Other cities have enacted strong ordinances. She recommended a moratorium on wireless installations until Belmont's ordinance can be strengthened. She also recommended an appeal of the federal regulations.

Christopher Wright, Belmont resident, recommended that T-Mobile consider smaller low-emission transmitters. He also recommended that other locations be considered. He noted that the FCC regulations do not require that the City accept the cheapest solution. He recommended an additional third-party review of the application.

Stephanie Guesdon, Belmont resident, stated that she selected Belmont for its peaceful environment. She noted that the City fears being sued if it does not approve this application. She recommended that the same level of noise should apply to both residential and commercial areas.

Andrea Jefferson, Belmont resident, submitted a petition signed by 100 residents (on file in City Clerk's Office), requesting a moratorium on cell installations. She noted that she had been a T-Mobile customer in the past and never had problems with cell service. She expressed concerns regarding noise and property values.

Valerie Price, Belmont resident, stated that the water tank was recently rebuilt larger than the original tank. She stated that although federal law requires cities to allow the installation of cell equipment, the City of Belmont does not have to do whatever T-Mobile requests. She noted that the Dekoven water tank, which also houses wireless equipment, has no landscaping.

Chris Adams, Belmont resident, noted that the landscaping that the Planning Commission required at the water district's Dekoven tank was never installed. He suggested postponing this matter until that issue is resolved.

Nicole Loomis, Belmont resident, expressed concerns regarding radiation exposure, noise and aesthetics. She noted that the old tank had already been torn down when she bought the house and the new tank was built subsequently.

Karen Lynch, Belmont resident, stated that many residents have been studying this issue for a long time. She commented that the City Council has an obligation to the residents, not to T-Mobile. She stated this is a quality of life issue, and that T-Mobile is only interested in profits.

Claudia Fuentes, Belmont resident, stated that property value is a valid issue to consider. If T-Mobile is allowed to install these panels, this would have to be disclosed by nearby residents during a home sale. She noted that the water department does not maintain its property.

Kati Pan, Belmont resident, stated that as a cancer survivor, she is concerned regarding potential health risks of radiation.

Rick Poplus, Belmont resident, also expressed concerns regarding health risks.

Unidentified Speaker requested information regarding a proposal from T-Mobile for a cell installation at Ralston Middle School.

Community Development Director de Melo responded that staff is aware there is a proposal for such an installation, but no formal application has been received.

Ben Davies, T-Mobile, explained that the smaller antennas described by one of the speakers is designed only for use inside buildings and has a range less than one city block. It is not a suitable option. He acknowledged that there is a perceived negative effect of cell installations on property values. He noted that the radiation being emitted is less than one-half of one percent of what is permitted by law. He stated that the City of Belmont will benefit from this installation through enhanced 9-1-1 calls, and that some residents have expressed support to T-Mobile for the installation.

In response to Council questions, Mr. Davies clarified that letters requesting support were sent to all Belmont T-Mobile customers. He also described the impracticability of the use of smaller antennas, and noted that it is unclear how many would be needed to cover the same areas as the ones proposed for the water tank. He explained that the proposed cell panels will take care of the biggest gap in coverage that now exists. He stated he is unfamiliar with Ralston Middle School and does not know anything about the proposal for that location. He noted that if the water tank was not present, there would likely need to be several microcells to cover the same area.

ACTION: On a motion by Councilmember Wozniak, seconded by Councilmember Dickenson, the Public Hearing was unanimously closed by a show of hands.

Councilmember Wozniak stated that there were points made by both sides of this issue. She is unable to make a decision at this time and recommended continuing the hearing for additional information.

In response to a question by Councilmember Dickenson regarding conflict of interest, **Anthony Tricoci** of RCC Consultants (third-party consultant) clarified that his firm has done no work for T-Mobile other than the evaluation of similar cell applications in other cities.

Councilmember Dickenson stated that many home appliances emit radiation, and he expressed concerns regarding the proposed receiver's proximity to homes. He is also concerned regarding future radiation frequency problems and recommended continuing the hearing in order to further study health and safety issues.

Councilmember Feierbach concurred to continue the hearing for further research.

Councilmember Lieberman stated that this is a community issue and the City Council has to make choices. He noted that the City can be sued if it rules outside its boundaries of options. He expressed concern regarding the coverage of 9-1-1 calls. He takes both sides of this matter seriously, and there is a need to approach the issue thoughtfully. He is concerned regarding liability. This application should not be approved unless it has been proven that the cell site is needed. He noted there is a finding to be made regarding the fact that alternate options are not available, which has not been answered. He expressed support for continuing this matter.

Mayor Braunstein concurred, and noted that due diligence is needed.

ACTION: Councilmember Wozniak made a motion, seconded by Councilmember Feierbach, to continue the Public Hearing.

Council discussion ensued regarding additional information requested in order to further evaluate the proposal, including:

- the option of using smaller transmitters, and how many would be required to achieve the same coverage
- data regarding the existing water tank, including floor area ratio
- water tank landscaping issues
- effect on property values due to the installation of cell equipment

- additional information regarding signage installed on cell tower on Notre Dame Avenue
- additional information from San Francisco, Berkeley, Cupertino, and San Diego County cell ordinances
- evaluation of Ninth Circuit Court of Appeals decision
- feasibility of alternate sites and alternate technology
- options if the water tower was not available for installation

Councilmember Wozniak expressed concern regarding the equipment noise. She expressed surprise that the representative from T-Mobile did not know where Ralston Middle School was located. She expressed concerns regarding maintenance of antenna farms, existing landscaping, and the perception of a health hazard.

Mayor Braunstein noted that if the proposed installation for the water tank is intended to close gaps in coverage, he questioned the need for another installation at Ralston Middle School.

ACTION: On the previous motion by Councilmember Wozniak, seconded by Councilmember Feierbach, the Public Hearing was unanimously continued, to a date uncertain, by a show of hands.

RECESS: 9:30 P.M.

RECONVENE: 9:35 P.M.

OLD BUSINESS

Informational Report on the Request for Stop Signs at the Intersection of Hiller Street and Wessex Way and the Results of the Stop Sign Demonstration

Interim Public Works Director Borrmann described the outreach program that was conducted for a proposed four-way stop at Hiller Street and Wessex Way. She noted that 65 percent of those responding did not support the installation. The Infrastructure Committee discussed this matter but did not provide a recommendation. She outlined options for consideration, and noted that the current policy on stop signs does not support the installation. She described some site distance issues in the area that could be addressed through code enforcement, and the elimination of some parking could improve the situation as well.

In response to Council questions, Interim Public Works Director Borrmann clarified that most of the respondents identified themselves, and most reside in the neighborhood. She noted that the existing policy does not address T-intersections, and other guidelines were utilized for staff's recommendation to not perform the installation.

Councilmember Feierbach concurred that the existing policy should be updated.

Councilmember Dickenson stated that stop signs promote traffic safety. He noted that the existing standards are unclear regarding the treatment of blind curves, and that this location is in close proximity to a school.

Discussion ensued regarding the previously-installed bulbouts and other stop sign locations.

Mayor Braunstein expressed support for the need for code enforcement in this area, and to update the stop sign policy.

Councilmember Dickenson noted that code enforcement will not address the blind curve problem.

Police Chief Mattei stated that this is a policy issue for the City Council to determine. He stated that the trial stop sign provided an opportunity for community input, and feedback was given. He noted that the neighborhood does not support the installation of the stop sign.

Mayor Braunstein noted that no resident is in attendance at the meeting in support of this stop sign.

Interim Public Works Director Borrmann stated that City Council could give direction regarding the removal of parking and the site line issues.

Councilmember Lieberman stated that this issue has been studied and he is prepared to vote. There is not strong support for the installation of the stop sign.

ACTION: Councilmember Lieberman made a motion, seconded by Mayor Braunstein, to accept the report and to deny the installation of the stop sign at Hiller Avenue and Wessex Way.

Councilmember Dickenson expressed a concern that the City Council is making decisions without the presence of people in the audience.

Councilmember Wozniak expressed concern regarding the nine points of reference for the findings to be made as outlined by staff, as well as the contention that stop signs should not be installed because people do not stop at them. She is not comfortable with the data provided.

Mayor Braunstein pointed out that there has been no communication from residents in support of the installation.

Police Chief Mattei suggested that the Council support what the neighbors want. He noted that drivers were impacted during the trial period enough to call to express their opinion.

Discussion ensued regarding the Infrastructure Committee's review of this matter.

ACTION: On the original motion, made by Councilmember Lieberman and seconded by Mayor Braunstein, to accept the report and to deny the installation of a stop sign at Hiller Avenue and Wessex Way was unanimously approved by a show of hands.

Resolution Approving the Operations Agreement With South Bay Recycling, LLC (SBR) for Operation of the Shoreway recycling and Disposal Center in San Carlos

City Manager Crist reviewed the previous actions taken regarding this matter. He noted that the bonds have been sold and the contract awarded. He clarified that the successful bid was \$9

million below the estimate. He reviewed the provisions in the agreement and noted that it contains standard language. Eight of the member agencies need to ratify the agreement.

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Lieberman, Resolution 10172 Approving the Operations Agreement With South Bay Recycling, LLC (SBR) for Operation of the Shoreway recycling and Disposal Center in San Carlos was approved by a show of hands (4-1, Dickenson no).

NEW BUSINESS

Discussion and Direction Regarding Parking Restrictions and Limitations City Wide

As previously noted, this item was tabled to a future meeting.

COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES, AND STAFF ITEMS

Verbal report from Councilmembers on Intergovernmental (IGR) and Subcommittee Assignments

Councilmember Wozniak stated that topics of discussion at the recent San Mateo County Library meeting included the budget. She noted that there is a new library director.

Councilmember Dickenson stated that the fire funding formula was addressed at a special Fire Commission meeting. He noted that the City of San Carlos is raising the issue, which has been vetted extensively through the new JPA process. He noted that he has met with firefighters who have expressed concerns.

Councilmember Lieberman added that the issue of the formula is assessed valuation. He clarified that this is unlikely to have an affect on the relationship between the two cities and there is no cause for alarm.

Councilmember Feierbach outlined programs and upcoming events that were discussed at a recent Senior Advisory Committee meeting.

Councilmember Lieberman stated that the capital project was the focus of the recent SBSA (South Bayside Systems Authority) meeting.

MEETING EXTENSION: At this time, being 10:30 p.m., on a motion by Councilmember Dickenson, seconded by Councilmember Feierbach, the meeting was unanimously extended to 11:00 p.m. by a show of hands.

Councilmember Wozniak announced that there would be a City Council candidate forum to be held on October 8.

Mayor Braunstein noted that the High-Speed Rail Advisory Committee has formed a policy working group and is seeking designees from each city.

Councilmember Wozniak offered to serve as designee, and Councilmember Feierbach offered to be the alternate.

ACTION: On a motion by Councilmember Lieberman, seconded by Mayor Braunstein, and unanimously approved by a show of hands to appoint Councilmember Wozniak as designee and Councilmember Feierbach as alternate to the High-Speed Rail policy working committee.

Verbal Report from City Manager

City Manager Crist announced that he would be retiring as of February 5, 2010. He expressed his appreciation for the ability to have been able to serve Belmont in the capacity of city manager. He also stated that the SBWMA (South Bayside Waste Management Authority) has a meeting forthcoming, and the City Council has expressed a desire to discuss agenda topics prior to the meeting.

Councilmember Dickenson expressed concerns regarding SBWMA's closed session negotiations and cash reserve policy, which reinforces the issue of the need to have elected officials serve on its board.

In response to Councilmember Feierbach's question regarding his promise to visit other cities to discuss this issue, Councilmember Dickenson stated that he was awaiting the drafting of the letter from the City Manager's office.

STUDY SESSION (continued from earlier)

**Response to Grand Jury Report Entitled "Trashtalk: Rethinking the Waste"
Recommendation RFP Process by the South Bayside Waste Management Authority (SBWMA)**

City Manager Crist noted that SBWMA has already sent a response, and clarified that each member city is required to send its own response. He clarified that staff concurs with SBWMA on all matters raised in the Grand Jury report with the exception of the issue of elected officials serving on the SBWMA board. He noted that he made a motion at a recent SBWMA board meeting in order to facilitate a discussion regarding this issue.

City Manager Crist stated that the Grand Jury report is factually incorrect in many areas. He clarified that Belmont performed its own RFP (request for proposal) process in parallel with the SBWMA process, and reached the same conclusion. He does not support starting over, as recommended by the Grand Jury. Common assumptions used in the RFP process were criticized by the Grand Jury, to which he does not agree. He concurs with the comments regarding the Nor Cal Waste background check issue during San Jose's RFP process, and noted that more controls were in place for the SBWMA process.

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Wozniak, and unanimously approved by a show of hands to approve the City of Belmont's response to the Grand Jury Report on the RFP Process by the SBWMA.

ADJOURNMENT at this time, being 10:52 p.m.

Cook

Meeting Tape Recorded and Videotaped
Audio Recording 736

City Clerk

Terri